

TREE PRESERVATION ORDERS:



Oak tree – TPO 187

- **Tree Preservation Orders (TPOs)** can be placed on trees and woodlands that have been assessed as providing a positive amenity to the public and where their removal would have a significant impact on the local environment and its enjoyment by the public.
- They are managed by the Local Council, in this case by Herefordshire Council as the Local Planning Authority (LPA). There are over 500 Tree Preservation Orders in Herefordshire, protecting about 750,000 trees, either as individuals or as parts of groups, areas or woodlands.
- Trees of any species and of any size can be protected by a TPO, including woodlands and non-commercial orchards. Bushes, shrubs and hedges are *not* covered, although trees growing *within* hedges may be eligible for protection.
- The TPO doesn't mean that the tree can never be worked on or felled; what it *does* mean is that you must apply for permission from the Council before any felling or cutting is carried out, thereby providing an opportunity to assess whether the proposed works are proportionate and that they won't be unduly harmful to public amenity.
- Certain exceptions apply where consent is *not* required; these are discussed below. Details of how to apply for permission are provided in a subsequent section.
- TPOs are not applied *routinely*: there must be good reason to protect a tree, such as when there are concerns that trees or woodland are under some kind of threat. This may arise when developments are proposed that could affect trees, or when it is believed that important trees are threatened with felling or detrimental tree surgery. A notification for tree works in a [Conservation Area](#) may also result in a TPO if it is believed that the work proposed would be detrimental.

- You can check to see if trees are protected by searching for the property in question on Herefordshire Council's online '[Administrative Map](#)'. However, you should bear in mind that trees recently protected may not be shown on this map while on the other hand, TPOs may be shown to include trees that are no longer present. To fully confirm if a tree or woodland is protected or not you should contact the Council by email at: dutyofficerandnaturalenvironment@herefordshire.gov.uk or by writing to *Herefordshire Council Natural Environment Services, Box 4, Hereford HR4 0XH*
- Residents with particular concerns that important trees or woodlands are at risk of being cut down or damaged can request that a TPO be made to protect them. You can use the contact details above to get in touch with the Council's conservation team, providing them with details of the tree, trees or woodland in question, including where they are, why they are of value to the public and why they are considered to be at risk.
- To cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree protected by a TPO *without* the authority's permission, or to cause or permit someone else to do so, is a criminal offence and can result in prosecution under Section 210 of the Town and Country Planning Act 1990. If convicted in the magistrates' court, there can be a fine of up to £20,000. In serious cases, a person may be committed for trial in the Crown Court and, if convicted, is liable to an unlimited fine.

Exceptions

Certain exceptions apply where the authority's consent to carry out works is not needed, although notice of those works may still need to be given to the authority.

These exceptions include:

- Removing dead branches from a tree.
- Cutting down or cutting back a tree which is dead or dangerous.
- While TPO consent is not required to make a dangerous tree safe, the Local Authority must be informed in writing 5 working days before the work is carried out.
- In situations where a protected tree poses an *immediate* risk of causing *serious* harm, it can be dealt with without giving advance notice, but only *to the extent that it is necessary to remove the risk*. (For example, the presence of a broken branch in a tree does not justify the felling of the entire tree.) As soon as practicable after the work becomes necessary, the owner (or agent) must give written notice to the authority of its extent. They should be able to provide evidence to justify the work carried out; where practicable it is advisable to be able to provide photographic evidence.
- TPO consent is not required for work which is directly in the way of development that is about to start for which detailed planning permission has been granted. (Note: this does not apply in the case of outline planning permission.)

- TPO consent is not required for tree works in a commercial orchard, or pruning fruit trees in accordance with good horticultural practice.
- Felling of trees in accordance with one of the Forestry Commission's grant schemes or where the Commission has granted a felling licence is exempt.
- It may be permissible to carry out works to prevent or control an *actionable nuisance*. However, it is strongly advised that a solicitor be consulted to determine if a nuisance is indeed 'actionable'.
- Consent is not required in certain circumstances for work carried out by, or at the request of certain statutory undertakers (such as utilities and telecoms companies). However, these statutory undertakers, or contractors working at their request, are advised to liaise with local authorities prior to carrying out work to trees protected by an Order. It is also expected that all vegetation control is carried out in accordance with best arboricultural practice and that they should also take care to not contravene the provisions of legislation protecting plants and wildlife.
- Works that are in line with an obligation under an Act of Parliament do not require TPO consent. For instance, under section 154 of the Highways Act 1980 a highways authority would not require TPO consent to take action to deal with trees causing danger to or obstruction of the highway.

Even if proposed works are regarded as exempt from the need to obtain permission, it is prudent to advise the Local Planning Authority of your intentions: **if you are in any doubt, check with your Local Authority.**

Applying for permission

- You can apply for permission to carry out work on a protected tree through Herefordshire Council's website:
<https://www.herefordshire.gov.uk/conservation-1/tree-preservation/3>
 There is no fee for applying for permission to work on a tree with a TPO.
- Applications will be registered, allocated a reference number and will be listed on the council's Planning Search page, which can be found [HERE](#)
- **Members of the public are free to comment on the proposed works, either to object or to support the proposal.**
- To ensure that these comments are duly considered they must be made through the website using the 'Make a comment on this application' link.
- The proposal will be considered, generally by the Council's Tree Officer, and a decision will be made based on whether the work proposed is regarded as being justified and proportionate. Comments made by members of the public and other consultees such as the local Parish Council will be taken into account in reaching a decision.
- To enable proposals to be properly considered it is important when making an application that the tree in question is clearly and unambiguously identified, giving

its species (if known) and preferably by showing its location on a sketch plan. Including photographs with the application may also be helpful. You should also provide a clear description of the operations proposed and give the reasons why the work is felt to be necessary. You might find it helpful to seek the advice of a tree surgeon/arborist before making an application; he or she may also be able to make the application on your behalf,

- Decisions should be issued with eight weeks of an application being registered.
- Decisions must be made in respect of the operations proposed in the application, so the authority should not issue a decision which significantly alters the work applied for. It may, however, grant consent for less work than that applied for.
- In applications that request a number of separate operations, or works that affect several trees, a split decision may be given, allowing some works but refusing others. In these cases the authority must make it clear in their decision notice exactly what is being authorised.
- Where consent is granted it remains valid for a period of two years from the date of the decision (unless varied by a Condition: see below)
- Where appropriate the council may grant permission subject to Conditions. Amongst other things, a condition may:
 - Require the planting of replacement trees;
 - Require the authorised work to be carried out to a specified standard;
 - Allow repeated operations to be carried out (Unless a condition specifies otherwise, works normally may be carried out only once)
 - Impose a time limit on the duration of consent other than the default 2 year period.
- If the council refuses all or part of an application you may, within 28 days of the date of the Council's decision notice, lodge an appeal against that decision. You may also appeal against the imposition of certain conditions. (You may also appeal if the authority has failed to notify you of a decision within eight weeks. There is no deadline for appealing on the grounds of non-determination)
- To lodge an appeal you must do so within 28 days of the decision being made by filling in a **tree preservation order appeal form**. You will also need a copy of the council's decision and any other documents that support your appeal. These should be sent to the council and also to the Planning Inspectorate:

By email to: treeandhedgeappeals@planninginspectorate.gov.uk
- Or by post to
 - Environment Appeals
 - Room 3A Eagle Wing
 - Temple Quay House
 - 2 The Square, Temple Quay
 - Bristol BS1 6PN.
- Full details of how to appeal are available online **HERE**.